

EXHIBIT FF

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8 ALTA BATES SUMMIT MEDICAL CENTER

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 COYNESS L. ENNIX, JR., M.D.,

13 Plaintiff,

14 v.

15 ALTA BATES SUMMIT MEDICAL CENTER,

16 Defendant.
17

CASE NO. C 07-2486 WHA

**DEFENDANT'S OBJECTIONS AND
RESPONSES TO PLAINTIFF'S
REQUEST FOR PRODUCTION OF
DOCUMENTS, SET TWO**

DEPT: Ctrm. 9, 19th Flr.
JUDGE: Hon. William H. Alsup
COMPLAINT FILED: May 9, 2007
TRIAL DATE: June 2, 2008

18
19 **PROPOUNDING PARTY:** Plaintiff COYNESS L. ENNIX, JR., M.D.

20 **RESPONDING PARTY:** Defendant ALTA BATES SUMMIT MEDICAL CENTER

21 **SET NUMBER:** TWO
22

23 Defendant Alta Bates Summit Medical Center ("Defendant" or "ABSMC") hereby
24 makes the following responses (including objections) to Plaintiff Coyness L. Ennix, Jr.,
25 M.D.'s ("Plaintiff") Request for Production of Documents, Set Two, dated October 29,
26 2007. Each response is subject to all objections as to competence, relevance,
27 materiality, propriety and admissibility, and any and all other objections and grounds
28 which would require the exclusion of any statements contained herein, if such

1 statements were made by a witness present and testifying at court, all of which
2 objections and grounds are reserved and may be interposed at the time of trial.

3 Defendant also notes that the requests, in their scope, and in their repetition of
4 discovery issues, seem designed for harassment purposes. Defendant has already
5 interposed an objection to providing information regarding any peer review conducted by
6 the Alta Bates Medical Staff on the grounds of lack of relevancy and undue interference
7 with the privacy rights of physicians and patients. Defendant has additionally objected to
8 the production of information for a time frame earlier than the date of the establishment
9 of the Summit Medical Staff in 1992 on the grounds of lack of relevancy and undue
10 burden. Defendant notes that Plaintiff has in fact enlarged the time period of his
11 requests (from 20 to 22 years) notwithstanding Defendant's objections to the expansive
12 time frame of the previous discovery. Defendant continues these objections in
13 responding to this discovery request, and incorporates these objections into each
14 specific response provided below. Throughout these responses, Defendant uses the
15 terms lack of relevancy or objection on relevancy grounds to refer to information which is
16 neither relevant to the lawsuit nor likely to lead to the discovery of admissible
17 information. Objections on the ground of physician privacy are based on the California
18 Constitution, California Evidence Code Section 1157, and the confidentiality
19 representations and obligations contained in the Summit Medical Staff's Bylaws which
20 have been produced to Plaintiff. The terms "Medical Staff" and "MEC" (Medical
21 Executive Committee) refer to the Summit Medical Staff. Objections on the ground of
22 patient privacy are based on applicable laws, including HIPAA, 42 USC § 1320 (d) et
23 seq. and the California Confidentiality of Medical Information Act, California Civil Code
24 § 56 et seq. In referring to Exhibit A to its Responses to the First Set of Special
25 Interrogatories (as supplemented to include the time from 1992 through 1994; hereafter
26 "Exhibit A"), Defendant continues its objection that each peer review action depicted in
27 Exhibit A involving different decision-makers, different departments and different
28

1 underlying issues, is too dissimilar from Plaintiff's situation to be relevant to Plaintiff's
2 claim.

3 Regarding the Court's Supplemental Order (Docket #10), Defendant states as
4 follows: the locations which have been reviewed as sources of documents to be
5 considered for production within the parameters of Defendant's Objections are the
6 records of the office of the Summit Medical Staff, the ABSMC administrative office, and
7 departments involved in developing and implementing Patient Care Policies and
8 Procedures. The persons involved in such review are: Joanne Jellin, PsyD, Director of
9 the Medical Staff Services, Karen Weaver, Administrative Assistant to the CEO, and
10 John Gentile, M.D., Vice President for Medical Affairs.

11 **REQUEST FOR PRODUCTION NO. 10:**

12 ALL DOCUMENTS (including but not limited to invoices, receipts and copies of
13 checks) RELATING TO monetary compensation or other financial benefit YOU obtained
14 RELATING TO medical services performed by Plaintiff between January 2002 to July
15 2006.

16 **OBJECTION TO REQUEST FOR PRODUCTION ("RFP") NO. 10:**

17 Defendant objects to RFP No. 10 on the grounds of vagueness, lack of relevancy
18 and undue burden.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

20 Instead of providing such documents and pursuant to a meet and confer session
21 on this issue between counsel, Defendant is prepared to enter into an agreed-upon
22 statement that Defendant invoices patients and/or their insurers or other payment
23 providers for hospital services provided to patients in conjunction with a physician's
24 provision of patient care services at the Medical Center. The physician bills separately
25 for physician services.

26 **REQUEST FOR PRODUCTION NO. 11:**

27 ALL DOCUMENTS RELATING TO YOUR Bylaws that in any way address the
28 conduct or responsibilities of YOUR MEDICAL STAFFS, including but not limited to Alta

1 Bates Medical Center and Summit Medical Center, between January 2002 to July 2006.
 2 "MEMBER" and "MEDICAL STAFF" have the definitions given in the Bylaws of the
 3 Summit Medical Staff (June 2006) ("Bylaws"), except that both terms refer to Alta Bates
 4 campus members and medical staff as well Summit campus members and medical staff.

5 **OBJECTION TO REQUEST FOR PRODUCTION NO. 11:**

6 Defendant objects to the request for "all documents that in any way address the
 7 conduct or the responsibilities of YOUR MEDICAL STAFFS" on the grounds of
 8 vagueness, overbreadth, lack of relevancy and undue burden. Defendant also objects to
 9 the time period of the request. The only relevant period is the period of the peer review
 10 challenged in Plaintiff's lawsuit, from late January 2004 to July 2006.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

12 Defendant will produce any Medical Center Bylaw reference to the Medical Staffs
 13 during the time frame of January 2004 to July 2006, and has already produced
 14 references in the Medical Center Board of Directors' records to the peer review of
 15 Plaintiff challenged in this lawsuit. The Medical Center Bylaws are maintained by the
 16 Administration Office of ABSMC.

17 **REQUEST FOR PRODUCTION NO. 12:**

18 ALL DOCUMENTS RELATING TO Hospital Bylaws of Defendant or any of its
 19 subsidiaries, including but not limited to Alta Bates Summit Medical Center, Alta Bates
 20 Medical Center and Summit Medical Center, between January 2002 to July 2006.

21 **OBJECTION TO REQUEST FOR PRODUCTION NO. 12:**

22 Defendant objects to RFP No. 12 on the grounds of vagueness, overbreadth, lack
 23 of relevancy or undue burden. This request could refer to any document regarding the
 24 governance or business of the Medical Center, whether or not in any way related to peer
 25 review.

26 **REQUEST FOR PRODUCTION NO. 13:**

27 ALL DOCUMENTS RELATING TO YOUR Rules and Regulations between
 28 January 2002 to July 2006.

OBJECTION TO REQUEST FOR PRODUCTION NO. 13:

Defendant objects to RFP No. 13 on the grounds of duplication of discovery and lack of relevancy as to the time period from January 2002 through January 2004.

Defendant objects to "all documents relating to Your Rules and Regulations" on the grounds of vagueness and overbreadth. By way of example only, the Rules and Regulations bearing a revision date of 4/05 have a section describing Medical Staff members' dues. This Request would seek the totally irrelevant dues records for the years of the request.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Defendant has already produced the Rules and Regulations of the Summit Medical Staff for the time period of 2/04 through 4/07. The Medical Center does not have a document termed "Rules and Regulations".

REQUEST FOR PRODUCTION NO. 14:

ALL versions of YOUR Human Resources Policy and Procedure Manuals between January 2002 to July 2006.

OBJECTION TO REQUEST FOR PRODUCTION NO. 14:

Defendant objects to RFP No. 14 on relevancy grounds. This lawsuit involves a member of the Medical Staff and a process particular to the Medical Staff (peer review); employee policies and procedures are not relevant to such issues.

REQUEST FOR PRODUCTION NO. 15:

ALL versions of YOUR Patient Care/Clinical Policy and Procedure Manuals between January 2002 to July 2006.

OBJECTION TO REQUEST FOR PRODUCTION NO. 15:

Defendant objects to RFP No. 15 on the grounds of overbreadth. Defendant has Clinical Policies and Procedures applicable to RN's and other employees that are in effect throughout the Medical Center, in addition to department-specific Policies and Procedures.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

2 Defendant will respond further once it receives a more specific delineation of what
3 is requested.

4 **REQUEST FOR PRODUCTION NO. 16:**

5 ALL versions of YOUR Standardized Procedures between January 2002 to July
6 2006.

7 **OBJECTION TO REQUEST FOR PRODUCTION NO. 16:**

8 Defendant objects to RFP No. 16 on relevancy grounds. The term "Standardized
9 Procedures" refers to procedures relative to nursing practices in any number of Medical
10 Center Departments unrelated to Plaintiff's area of practice.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

12 Defendant will respond further once it receives a more specific delineation of what
13 is requested.

14 **REQUEST FOR PRODUCTION NO. 17:**

15 ALL DOCUMENTS RELATING TO Cardiac Surgery Peer Review Committee
16 INVESTIGATION of any MEMBER of the MEDICAL STAFFS of the Alta Bates or
17 Summit Campuses of ABSMC conducted by YOU between January 1985 to July 2006.
18 "INVESTIGATION" has the definitions given in the Bylaws of the Summit Medical Staff
19 (June 2006)

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

21 Defendant objects to this interrogatory on vagueness grounds. The Bylaw
22 definition of an investigation means an investigation conducted by the MEC or the
23 President on behalf of the MEC. The Summit Medical Staff Cardiac Surgery Peer
24 Review Committee does not conduct investigations.

25 **REQUEST FOR PRODUCTION NO. 18:**

26 ALL DOCUMENTS RELATING TO the meeting minutes of YOUR Cardiac
27 Surgery Peer Review Committees between January 1985 to July 2006.

28

OBJECTION TO REQUEST FOR PRODUCTION NO. 18:

Defendant objects on relevancy grounds as well as grounds of physician and patient privacy. The peer review process challenged by Plaintiff in this lawsuit was conducted at the MEC and Medical Staff Officer level. Defendant has provided information concerning all investigations conducted at that level between 1992 and present (except for those involving pending physician privacy objections).

REQUEST FOR PRODUCTION NO. 19:

ALL DOCUMENTS RELATING TO the initiation (including but not limited to by complaints received) of any INVESTIGATIONS by YOUR Cardiac Surgery Peer Review Committees between January 1985 to July 2006. "INVESTIGATION" has the meaning given in the Bylaws.

OBJECTION TO REQUEST FOR PRODUCTION NO. 19:

Defendant objects to this request on vagueness grounds. The Bylaw definition of an investigation means an investigation conducted by the MEC or the President on behalf of the MEC. The Bylaws exclude from the definition of an INVESTIGATION the usual activities of departments and other Medical Staff committees. The Summit Medical Staff Cardiac Surgery Peer Review Committee does not initiate an INVESTIGATION.

REQUEST FOR PRODUCTION NO. 20:

ALL DOCUMENTS RELATING TO decisions after a complaint was made, not to initiate an INVESTIGATION by YOUR Cardiac Surgery Peer Review Committees between January 1985 to July 2006. "INVESTIGATION" has the meaning given in the Bylaws.

OBJECTION TO REQUEST FOR PRODUCTION NO. 20:

Defendant objects to this request on vagueness grounds. The Bylaw definition of an investigation means an investigation conducted by the MEC or the President on behalf of the MEC. The Bylaws exclude from the definition of an INVESTIGATION the usual activities of departments and other Medical Staff committees. The Summit Medical

1 Staff Cardiac Surgery Peer Review Committee does not initiate or decide not to initiate
2 an INVESTIGATION.

3 **REQUEST FOR PRODUCTION NO. 21:**

4 ALL DOCUMENTS RELATING TO the outcome or result or subsequent action of
5 INVESTIGATIONS by YOUR Cardiac Surgery Peer Review Committees between
6 January 1985 to July 2006. "INVESTIGATION" has the meaning given in the Bylaws.

7 **OBJECTION TO REQUEST FOR PRODUCTION NO. 21:**

8 Defendant objects to this request on vagueness grounds. The Bylaw definition of
9 an investigation means an investigation conducted by the MEC or the President on
10 behalf of the MEC, and excludes departmental activity. The Summit Medical Staff
11 Cardiac Surgery Peer Review Committee does not conduct an INVESTIGATION.

12 **REQUEST FOR PRODUCTION NO. 22:**

13 ALL DOCUMENTS RELATING TO Surgery Peer Review Committee
14 Investigations of any MEMBER of the MEDICAL STAFFS of the Alta Bates or Summit
15 Campuses of ABSMC conducted by YOU between January 1985 to July 2006.
16 "INVESTIGATION" has the meaning given in the Bylaws.

17 **OBJECTION TO REQUEST FOR PRODUCTION NO. 22:**

18 Defendant objects to this request on vagueness grounds. The Bylaw definition of
19 an investigation means an investigation conducted by the MEC or the President on
20 behalf of the MEC. The Summit Medical Staff Surgery Peer Review Committee does not
21 conduct INVESTIGATIONS.

22 **REQUEST FOR PRODUCTION NO. 23:**

23 ALL DOCUMENTS RELATING TO the meeting minutes of YOUR Surgery Peer
24 Review Committees between January 1985 to July 2006.

25 **OBJECTION TO REQUEST FOR PRODUCTION NO. 23:**

26 Defendant objects on relevancy grounds as well as grounds of physician and
27 patient privacy. The peer review process challenged by Plaintiff in this lawsuit was
28 conducted at the MEC and Medical Staff Officer level. Defendant has provided

1 information concerning all investigations conducted at that level between 1992 and
2 present (except for those involving pending physician privacy objections).

3 **REQUEST FOR PRODUCTION NO. 24:**

4 ALL DOCUMENTS RELATING TO the initiation (including but not limited to
5 complaints received) of any INVESTIGATIONS by YOUR Surgery Peer Review
6 Committees between January 1985 to July 2006. "INVESTIGATION" has the meaning
7 given in the Bylaws.

8 **OBJECTION TO REQUEST FOR PRODUCTION NO. 24:**

9 Defendant objects to this request on vagueness grounds. The Bylaw definition of
10 an investigation means an investigation conducted by the MEC or the President on
11 behalf of the MEC. The Summit Medical Staff Surgery Peer Review Committee does not
12 initiate INVESTIGATIONS.

13 **REQUEST FOR PRODUCTION NO. 25:**

14 ALL DOCUMENTS RELATING TO decisions after a complaint was made, not to
15 initiate an INVESTIGATION by YOUR Surgery Peer Review Committees between
16 January 1985 to July 2006. "INVESTIGATION" has the meaning given in the Bylaws.

17 **OBJECTION TO REQUEST FOR PRODUCTION NO. 25:**

18 Defendant objects to this request on vagueness grounds. The Bylaw definition of
19 an investigation means an investigation conducted by the MEC or the President on
20 behalf of the MEC. The Cardiac Surgery Peer Review Committee does not initiate or
21 decide not to initiate an INVESTIGATION.

22 **REQUEST FOR PRODUCTION NO. 26:**

23 ALL DOCUMENTS RELATING TO the outcome, result or subsequent action of
24 INVESTIGATIONS by YOUR Surgery Peer Review Committees between January 1985
25 to July 2006. "INVESTIGATION" has the meaning given in the Bylaws.

26 **OBJECTION TO REQUEST FOR PRODUCTION NO. 26:**

27 Defendant objects to this request on vagueness grounds. The Bylaw definition of
28 an investigation means an investigation conducted by the MEC or the President on

1 behalf of the MEC. The Cardiac Surgery Peer Review Committee does not conduct
2 INVESTIGATIONS.

3 **REQUEST FOR PRODUCTION NO. 27:**

4 ALL DOCUMENTS RELATING TO Medical Executive Committee Peer Review
5 Investigations of every MEMBER of the MEDICAL STAFFS of the Alta Bates or Summit
6 Campuses of ABSMC conducted by YOU between January 1985 to July 2006.

7 "INVESTIGATION" has the meaning given in the Bylaws.

8 **OBJECTION TO REQUEST FOR PRODUCTION NO. 27:**

9 Defendant objects on the grounds of invasion of privacy of the Medical Staff
10 members who have been promised that peer review would be conducted on a
11 confidential basis in accordance with California Evidence Code Section 1157 and the
12 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance
13 such privacy interests with Plaintiff's request for information in compiling a summary
14 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
15 That chart does not yet provide information concerning physicians who have raised
16 privacy objections in response to a notice from Defendant's counsel and pending further
17 hearing by the court on November 30, 2007. Providing records beyond the summary
18 information already produced would unduly interfere with such privacy interests and
19 undermine the system of peer review. Such request would also interfere with patient
20 privacy rights.

21 **REQUEST FOR PRODUCTION NO. 28:**

22 ALL DOCUMENTS RELATING TO the meeting minutes of YOUR Medical
23 Executive Committee Peer Review Committees between January 1985 to July 2006.

24 **OBJECTION TO REQUEST FOR PRODUCTION NO. 28:**

25 Defendant objects on vagueness grounds, and interprets the question to seek
26 information about peer review investigations conducted by the MEC or the Medical Staff
27 President on behalf of the MEC in accordance with the Bylaw definition of the term
28 "investigation". Defendant objects on the grounds of invasion of privacy of the Medical

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Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance such privacy interests with Plaintiff's request for information in compiling a summary chart of corrective actions undertaken by the MEC during the period of 1992 to present. That chart does not yet provide information concerning physicians who have raised privacy objections in response to a notice from Defendant's counsel and pending further hearing by the court on November 30, 2007. Providing records beyond the summary information already produced would unduly interfere with such privacy interests and undermine the system of peer review. Such request would also interfere with patient privacy rights.

REQUEST FOR PRODUCTION NO. 29:

ALL DOCUMENTS RELATING TO the initiation (including but not limited to complaints received) of any INVESTIGATIONS by of YOUR Medical Executive Committees between January 1985 to July 2006. "INVESTIGATION" has the meaning given in the Bylaws.

OBJECTION TO REQUEST FOR PRODUCTION NO. 29:

Defendant objects to RFP No. 29 on vagueness grounds to the term "complaint", an objection that Defendant has previously raised. Defendant further objects on the grounds of invasion of privacy of the Medical Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance such privacy interests with Plaintiff's request for information in compiling a summary chart of corrective actions undertaken by the MEC during the period of 1992 to present. That chart does not yet provide information concerning physicians who have raised privacy objections in response to a notice from Defendant's counsel and pending further hearing by the court on November 30, 2007. Providing records beyond the summary information already produced would

unduly interfere with such privacy interests and undermine the system of peer review. Such request would also interfere with patient privacy rights.

REQUEST FOR PRODUCTION NO. 30:

ALL DOCUMENTS RELATING TO decisions after a complaint was made, not to initiate an INVESTIGATION by YOUR Medical Executive Committees between January 1985 to July 2006. "INVESTIGATION" has the meaning given in the Bylaws.

OBJECTION TO REQUEST FOR PRODUCTION NO. 30:

Defendant objects to RFP No. 30 on grounds of vagueness (as to the term "complaint"), undue burden and lack of relevancy. Defendant has provided information of investigations undertaken by the MEC and the outcome of such investigations during the time period delineated in Defendant's responses. These are the "complaints" the MEC deemed appropriate to investigate.

REQUEST FOR PRODUCTION NO. 31:

ALL DOCUMENTS RELATING TO the outcome or result or subsequent action of INVESTIGATIONS by YOUR Medical Executive Committees between January 1985 to July 2006. "INVESTIGATION" has the meaning given in the Bylaws.

OBJECTION TO REQUEST FOR PRODUCTION NO. 31:

Defendant objects on the grounds of invasion of privacy of the Medical Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance such privacy interests with Plaintiff's request for information in compiling a summary chart of corrective actions undertaken by the MEC during the period of 1992 to present. That chart does not yet provide information concerning physicians who have raised privacy objections in response to a notice from Defendant's counsel and pending further hearing by the court on November 30, 2007. Providing records beyond the summary information already produced would unduly interfere with such privacy interests and

1 undermine the system of peer review. Such request also has the potential of interfering
2 with patient privacy rights.

3 **REQUEST FOR PRODUCTION NO. 32:**

4 ALL DOCUMENTS RELATING TO hearings conducted pursuant to Article VIII of
5 the Bylaws involving a MEMBER of the MEDICAL STAFFS of the Alta Bates or Summit
6 campuses of ABSMC, between January 1985 to July 2006.

7 **OBJECTION TO REQUEST FOR PRODUCTION NO. 32:**

8 Defendant objects on the grounds of invasion of privacy of the Medical Staff
9 members who have been promised that peer review would be conducted on a
10 confidential basis in accordance with California Evidence Code Section 1157 and the
11 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance
12 such privacy interests with Plaintiff's request for information in compiling a summary
13 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
14 That chart does not yet provide information concerning physicians who have raised
15 privacy objections in response to a notice from Defendant's counsel and pending further
16 hearing by the court on November 30, 2007. Providing records beyond the summary
17 information already produced would unduly interfere with such privacy interests and
18 undermine the system of peer review. Such request could also interfere with patient
19 privacy rights.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 32:**

21 As noted on Exhibit A to Defendant's Responses to Plaintiff's First Set of
22 Interrogatories, only one hearing has been commenced during the period of 1992 to
23 present. The hearing did not go beyond the first day and a transcript of those
24 proceedings was not produced.

25 **REQUEST FOR PRODUCTION NO. 33:**

26 ALL DOCUMENTS RELATING TO instances where a MEMBER of the MEDICAL
27 STAFFS of the Alta Bates or Summit campuses of ABSMC agreed to restrict or suspend
28

his or her clinical privileges in lieu of CORRECTIVE ACTION, between January 1985 to July 2006. "CORRECTIVE ACTION" has the meaning given by the Bylaws.

OBJECTION TO REQUEST FOR PRODUCTION NO. 33:

Defendant objects on the grounds of invasion of privacy of the Medical Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance such privacy interests with Plaintiff's request for information in compiling a summary chart of corrective actions undertaken by the MEC during the period of 1992 to present. That chart does not yet provide information concerning physicians who have raised privacy objections in response to a notice from Defendant's counsel and pending further hearing by the court on November 30, 2007. Providing records beyond the summary information already produced would unduly interfere with such privacy interests and undermine the system of peer review. Such request could also interfere with patient privacy rights.

REQUEST FOR PRODUCTION NO. 34:

ALL DOCUMENTS RELATING TO instances between January 1985 to July 2006, where YOU referred any investigation involving a MEMBER of YOUR MEDICAL STAFF for review to OUTSIDE PEER REVIEW. "OUTSIDE PEER REVIEW" means peer review conducted by doctors without privileges at any campus of ABSMC.

OBJECTION TO REQUEST FOR PRODUCTION NO. 34:

Defendant objects on the grounds of invasion of privacy of the Medical Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance such privacy interests with Plaintiff's request for information in compiling a summary chart of corrective actions undertaken by the MEC during the period of 1992 to present. That chart does not yet provide information concerning physicians who have raised

1 privacy objections in response to a notice from Defendant's counsel and pending further
 2 hearing by the court on November 30, 2007. Providing records beyond the summary
 3 information already produced would unduly interfere with such privacy interests and
 4 undermine the system of peer review. Such request would also interfere with patient
 5 privacy rights.

6 **REQUEST FOR PRODUCTION NO. 35:**

7 ALL DOCUMENTS RELATING TO instances between January 1985 to July 2006,
 8 where YOU referred cases for OUTSIDE PEER REVIEW after an INTERNAL PEER
 9 REVIEW concluded there had been no deviation from the standard of care. "OUTSIDE
 10 PEER REVIEW" means peer review conducted by doctors without privileges at any
 11 campus of ABSMC. "INTERNAL PEER REVIEW" means peer review conducted by
 12 doctors with privileges at any campus of ABSMC.

13 **OBJECTION TO REQUEST FOR PRODUCTION NO. 35:**

14 Defendant objects on the grounds of invasion of privacy of the Medical Staff
 15 members who have been promised that peer review would be conducted on a
 16 confidential basis in accordance with California Evidence Code Section 1157 and the
 17 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance
 18 such privacy interests with Plaintiff's request for information in compiling a summary
 19 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
 20 That chart does not yet provide information concerning physicians who have raised
 21 privacy objections in response to a notice from Defendant's counsel and pending further
 22 hearing by the court on November 30, 2007. Providing records beyond the summary
 23 information already produced would unduly interfere with such privacy interests and
 24 undermine the system of peer review. Such request would also interfere with patient
 25 privacy rights.

26 **REQUEST FOR PRODUCTION NO. 36:**

27 ALL DOCUMENTS RELATING TO communications between YOU and the
 28 National Medical Audit, including but not limited to letters of engagement, regarding peer

1 review of any MEMBER of YOUR MEDICAL STAFFS, between January 1985 to July
2 2006.

3 **OBJECTION TO REQUEST FOR PRODUCTION NO. 36:**

4 Defendant objects on the grounds of invasion of privacy of the Medical Staff
5 members who have been promised that peer review would be conducted on a
6 confidential basis in accordance with California Evidence Code Section 1157 and the
7 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance
8 such privacy interests with Plaintiff's request for information in compiling a summary
9 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
10 That chart does not yet provide information concerning physicians who have raised
11 privacy objections in response to a notice from Defendant's counsel and pending further
12 hearing by the court on November 30, 2007. Providing records beyond the summary
13 information already produced would unduly interfere with such privacy interests and
14 undermine the system of peer review. Such request would also interfere with patient
15 privacy rights.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

17 As to communications with NMA regarding Plaintiff's peer review, such
18 documents have already been produced. As to the retention of NMA for peer review of
19 others, Defendant will supplement Exhibit A to identify the outside peer review
20 conducted by NMA.

21 **REQUEST FOR PRODUCTION NO. 37:**

22 ALL DOCUMENTS RELATING TO OUTSIDE PEER REVIEW conducted for YOU
23 by the National Medical Audit between January 1985 to July 2006. "OUTSIDE PEER
24 REVIEW" means peer review conducted by doctors without privileges at any campus of
25 ABSMC.

26 **OBJECTION TO REQUEST FOR PRODUCTION NO. 37:**

27 Defendant objects on the grounds of invasion of privacy of the Medical Staff
28 members who have been promised that peer review would be conducted on a

1 confidential basis in accordance with California Evidence Code Section 1157 and the
 2 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance
 3 such privacy interests with Plaintiff's request for information in compiling a summary
 4 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
 5 That chart does not yet provide information concerning physicians who have raised
 6 privacy objections in response to a notice from Defendant's counsel and pending further
 7 hearing by the court on November 30, 2007. Providing records beyond the summary
 8 information already produced would unduly interfere with such privacy interests and
 9 undermine the system of peer review. Such request would also interfere with patient
 10 privacy rights.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

12 All documents relating to NMA's review of Plaintiff have already been produced.
 13 Defendant will supplement Exhibit A to identify the instance of outside peer review
 14 conducted by NMA.

15 **REQUEST FOR PRODUCTION NO. 38:**

16 ALL DOCUMENTS RELATING TO the Ad Hoc Committee investigation of
 17 Plaintiff, including but not limited to meeting minutes.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 38:**

19 All such documents have already been produced.

20 **REQUEST FOR PRODUCTION NO. 39:**

21 ALL DOCUMENTS RELATING TO any instance where YOU formed an Ad Hoc
 22 Committee regarding peer review of a MEMBER of the MEDICAL STAFFS of the Alta
 23 Bates or Summit Campuses between January 1985 to July 2006.

24 **OBJECTION TO REQUEST FOR PRODUCTION NO. 39:**

25 Defendant objects on the grounds of invasion of privacy of the Medical Staff
 26 members who have been promised that peer review would be conducted on a
 27 confidential basis in accordance with California Evidence Code Section 1157 and the
 28 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance

1 such privacy interests with Plaintiff's request for information in compiling a summary
 2 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
 3 That chart does not yet provide information concerning physicians who have raised
 4 privacy objections in response to a notice from Defendant's counsel and pending further
 5 hearing by the court on November 30, 2007. Providing records beyond the summary
 6 information already produced (which summary identifies when ad hoc committees were
 7 used in the peer review process) would unduly interfere with such privacy interests and
 8 undermine the system of peer review. Such request would also interfere with patient
 9 privacy rights.

10 **REQUEST FOR PRODUCTION NO. 40:**

11 ALL DOCUMENTS RELATING TO the selection and constitution of Committee
 12 Members of any Ad Hoc Committee YOU appointed regarding peer view of a MEMBER
 13 of the MEDICAL STAFFS of the Alta Bates or Summit Campuses between January 1985
 14 to July 2006.

15 **OBJECTION TO REQUEST FOR PRODUCTION NO. 40:**

16 Defendant objects on the grounds of invasion of privacy of the Medical Staff
 17 members who have been promised that peer review would be conducted on a
 18 confidential basis in accordance with California Evidence Code Section 1157 and the
 19 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance
 20 such privacy interests with Plaintiff's request for information in compiling a summary
 21 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
 22 That chart does not yet provide information concerning physicians who have raised
 23 privacy objections in response to a notice from Defendant's counsel and pending further
 24 hearing by the court on November 30, 2007. Providing records beyond the summary
 25 information already produced would unduly interfere with such privacy interests and
 26 undermine the system of peer review.

27 **REQUEST FOR PRODUCTION NO. 41:**

28 ALL DOCUMENTS RELATING TO instances where YOU imposed a proctoring

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1 restriction on a MEMBER OF YOUR MEDICAL STAFFS at the Alta Bates or Summit
2 campuses between January 1985 to July 2006.

3 **OBJECTION TO REQUEST FOR PRODUCTION NO. 41:**

4 Defendant objects on relevancy grounds to provision of any proctoring information
5 concerning the proctoring of new staff or members commencing additional privileges. As
6 to proctoring used as a corrective action, Defendant objects on the grounds of invasion
7 of privacy of the Medical Staff members who have been promised that peer review would
8 be conducted on a confidential basis in accordance with California Evidence Code
9 Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant has
10 attempted to balance such privacy interests with Plaintiff's request for information in
11 compiling a summary chart of corrective actions undertaken by the MEC during the
12 period of 1992 to present. That chart does not yet provide information concerning
13 physicians who have raised privacy objections in response to a notice from Defendant's
14 counsel and pending further hearing by the court on November 30, 2007. Providing
15 records beyond the summary information already produced would unduly interfere with
16 such privacy interests and undermine the system of peer review. Such provision of
17 records would also interfere with patient privacy rights.

18 **REQUEST FOR PRODUCTION NO. 42:**

19 ALL DOCUMENTS RELATING TO instances where the where YOU extended or
20 renewed a proctoring restriction on a MEMBER OF YOUR MEDICAL STAFFS at the
21 Alta Bates or Summit campuses between January 1985 to July 2006.

22 **OBJECTION TO REQUEST FOR PRODUCTION NO. 42:**

23 Defendant objects to information regarding proctoring of new Medical Staff
24 members or members who are obtaining additional privileges on the grounds of lack of
25 relevancy. Defendant objects on the grounds of invasion of privacy of the Medical Staff
26 members who have been promised that peer review would be conducted on a
27 confidential basis in accordance with California Evidence Code Section 1157 and the
28 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance

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1 such privacy interests with Plaintiff's request for information in compiling a summary
 2 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
 3 That chart does not yet provide information concerning physicians who have raised
 4 privacy objections in response to a notice from Defendant's counsel and pending further
 5 hearing by the court on November 30, 2007. Providing records beyond the summary
 6 information already produced would unduly interfere with such privacy interests and
 7 undermine the system of peer review. Such request also interferes with patient privacy
 8 rights.

9 **REQUEST FOR PRODUCTION NO. 43:**

10 ALL DOCUMENTS RELATING TO complaints YOU received regarding Russell
 11 D. Stanten, M.D., Steven A. Stanten, M.D., Leigh I.G. Iverson, M.D., and William M.
 12 Isenberg, M.D. between January 1985 to July 2006.

13 **OBJECTION TO REQUEST FOR PRODUCTION NO. 43:**

14 Defendant objects to RFP No. 43 on vagueness grounds as to the term
 15 "complaints" and further objects on privacy grounds, as enunciated and protected by
 16 California Evidence Code Section 1157, the Medical Staff Bylaws and the California
 17 Constitution.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

19 The Summit Medical Staff MEC has not conducted an investigation, as such term
 20 is defined in its Bylaws, concerning any such individuals.

21 **REQUEST FOR PRODUCTION NO. 44:**

22 ALL DOCUMENTS reflecting or RELATING TO membership on YOUR Surgery
 23 Peer Review Committees between January 1985 to July 2006.

24 **OBJECTION TO REQUEST FOR PRODUCTION NO. 44:**

25 Defendant objects on the grounds of overbreadth, relevancy and interference with
 26 physician and patient privacy rights to the extent that this request seeks "all documents"
 27 reflecting membership on the Surgery Peer Review Committee ("SPRC") for the time
 28

1 believed to be relevant by Defendant. Such request could cover the minutes of any
2 SPRC meeting.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

4 Defendant has identified such committee members in its Initial Disclosures for the
5 time period of Plaintiff's peer review.

6 **REQUEST FOR PRODUCTION NO. 45:**

7 ALL DOCUMENTS reflecting or RELATING TO membership on YOUR Cardiac
8 Surgery Peer Review Committees between January 1985 to July 2006.

9 **OBJECTION TO REQUEST FOR PRODUCTION NO. 45:**

10 Defendant objects on the grounds of overbreadth, relevancy and interference with
11 physician and patient privacy rights to the extent that this request seeks "all documents"
12 reflecting membership on the Cardiac Surgery Peer Review Committee ("CSPRC") for
13 the time believed to be relevant by Defendant. Such request could cover the minutes of
14 any CSPRC meeting.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

16 Defendant has identified such committee members in its Initial Disclosures for the
17 time period of Plaintiff's peer review.

18 **REQUEST FOR PRODUCTION NO. 46:**

19 ALL DOCUMENTS RELATING TO INVESTIGATION or CORRECTIVE ACTION
20 or any other disciplinary action with respect to MEMBERS of the MEDICAL STAFF,
21 other than Plaintiff, who participated or were involved in the TEN CASES. "TEN CASES"
22 means the cases relating to Plaintiff that were examined by the Ad Hoc Committee and
23 were referred to National Medical Audit for review.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 46:**

25 Not applicable. See, Defendant's Response to Interrogatory No. 15 of Plaintiff's
26 Special Interrogatories, Set One.

27

28

REQUEST FOR PRODUCTION NO. 47:

ALL DOCUMENTS RELATED TO the INVESTIGATIONS of Physicians A through N listed in Exhibit A to Defendant's Response to Plaintiff's Special Interrogatories, Set One.

OBJECTION TO REQUEST FOR PRODUCTION NO. 47:

Defendant objects on the grounds of invasion of privacy of the Medical Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance such privacy interests with Plaintiff's request for information in compiling a summary chart of corrective actions undertaken by the MEC during the period of 1992 to present. That chart does not yet provide information concerning physicians who have raised privacy objections in response to a notice from Defendant's counsel and pending further hearing by the court on November 30, 2007. Providing records beyond the summary information already produced would unduly interfere with such privacy interests and undermine the system of peer review. Such provision of records would also interfere with patient privacy rights.

REQUEST FOR PRODUCTION NO. 48:

ALL DOCUMENTS RELATED TO rates of survival and/or complications involving cardiac surgeons who have practiced at YOUR Summit campus from January 1985 to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 48:

Defendant objects on grounds of overbreadth, vagueness, physician privacy and patient privacy.

RESPONSE TO REQUEST FOR PRODUCTION NO. 48:

To the extent that such request seeks documents containing statistical information considered during Plaintiff's peer review, such documents have already been produced to Plaintiff.

REQUEST FOR PRODUCTION NO. 49:

ALL DOCUMENTS RELATED TO minimally invasive cases performed by all cardiac surgeons at ABSMC during 2004 and 2005.

OBJECTION TO REQUEST FOR PRODUCTION NO. 49:

Defendant objects on the grounds of overbreadth and patient privacy.

REQUEST FOR PRODUCTION NO. 50:

ALL DOCUMENTS RELATED TO INVESTIGATIONS YOU conducted in which a Cardiologist or Cardiac Surgeon MEMBER of THE MEDICAL STAFFS was investigated by a committee or other group of physicians that did not include Cardiac Surgeons or Cardiologists. "INVESTIGATION" has the meaning given in the Bylaws.

OBJECTION TO REQUEST FOR PRODUCTION NO. 50:

See Exhibit A to Defendant's Responses to Plaintiff's Special Interrogatories, Set One. The MEC has not conducted any INVESTIGATION of a cardiac surgeon, and only one investigation of a cardiologist during the time period covered by the chart. As to that one investigation, Defendant objects to the production of any documents relating thereto on physician and patient privacy grounds.

REQUEST FOR PRODUCTION NO. 51:

ALL DOCUMENTS RELATED TO Cardiothoracic Peer Review Committee Data from the Alta Bates or Summit Campuses of ABSMC from 1995 to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 51:

Defendant objects on vagueness grounds. To the extent that Plaintiff seeks data regarding his own peer review, it has been produced. To the extent that Plaintiff seeks such data regarding the peer review of other Medical Staff members, Defendant objects on physician and patient privacy grounds.

REQUEST FOR PRODUCTION NO. 52:

ALL DOCUMENTS RELATED TO instances during 2004 to 2006 where YOUR Medical Executive Committee received quality assurance information regarding any MEMBER of the MEDICAL STAFFS of Defendant.

OBJECTION TO REQUEST FOR PRODUCTION NO. 52:

Defendant objects on grounds of vagueness, undue burden and lack of relevancy. To the extent that Plaintiff seeks information regarding individuals who were the subject of a MEC investigation, such information has been provided in summary form on Exhibit A. Producing underlying documents would unduly violate the physician and patient privacy rights asserted by Defendant in this lawsuit.

REQUEST FOR PRODUCTION NO. 53:

ALL DOCUMENTS RELATED TO instances or claims that a MEMBER of YOUR MEDICAL STAFFS falsified medical chart information, between January 1985 to July 2006. "INVESTIGATION" has the meaning given in the Bylaws.

OBJECTION TO REQUEST FOR PRODUCTION NO. 53:

Defendant objects on the grounds of invasion of privacy of the Medical Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance such privacy interests with Plaintiff's request for information in compiling a summary chart of corrective actions undertaken by the MEC during the period of 1992 to present. That chart does not yet provide information concerning physicians who have raised privacy objections in response to a notice from Defendant's counsel and pending further hearing by the court on November 30, 2007. Providing records beyond the summary information already produced would unduly interfere with such privacy interests and undermine the system of peer review. Such provision of records would also interfere with patient privacy rights.

RESPONSE TO REQUEST FOR PRODUCTION NO. 53:

Defendant will supplement Exhibit A to provide further detail re any issues of falsification of medical chart information.

REQUEST FOR PRODUCTION NO. 54:

ALL DOCUMENTS RELATED TO or reflecting instances from 1995 to the present when the Chair of a Department at the Alta Bates or Summit campuses requested a review of a MEMBER of the MEDICAL STAFF by an in-house specialist and then established an Ad Hoc Committee to review the MEMBER even though the in-house specialist found no deviations from the standard of care.

OBJECTION TO REQUEST FOR PRODUCTION NO. 54:

Defendant objects to the phrase "even though the in-house specialist found no deviations from the standard of care" on the grounds of ambiguity and relevancy. Exhibit A to Defendant's Responses to Plaintiff's Special Interrogatories, Set One sets forth instances where an MEC investigation was conducted following a department review. See Defendant's Objection to Interrogatory No. 7 of Plaintiff's Special Interrogatories, Set One. To the extent that this request seeks documents underlying Exhibit A, Defendant objects on the grounds of invasion of privacy of the Medical Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant further objects on patient privacy grounds.

RESPONSE TO REQUEST FOR PRODUCTION NO. 54:

Defendant will supplement Exhibit A to provide further information regarding the departmental review referenced in the chart.

REQUEST FOR PRODUCTION NO. 55:

ALL DOCUMENTS reflecting instances when poor documentation by a MEMBER of the MEDICAL STAFFS of the Alta Bates or Summit Campuses of ABSMC was examined by YOUR Medical Executive Committee, from 1995 to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 55:

Defendant objects on the grounds of invasion of privacy of the Medical Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the

provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance such privacy interests with Plaintiff's request for information in compiling a summary chart of corrective actions undertaken by the MEC during the period of 1992 to present. That chart does not yet provide information concerning physicians who have raised privacy objections in response to a notice from Defendant's counsel and pending further hearing by the court on November 30, 2007. Providing records beyond the summary information already produced would unduly interfere with such privacy interests and undermine the system of peer review. Such provision of records would also interfere with patient privacy rights.

RESPONSE TO REQUEST FOR PRODUCTION NO. 55:

Defendant will supplement Exhibit A to provide further information regarding peer review investigations concerning poor documentation.

REQUEST FOR PRODUCTION NO. 56:

ALL DOCUMENTS reflecting instances at the Alta Bates or Summit campuses of ABSMC where cardiac patients had both a psychiatric diagnosis and an indication for cardiac surgery, including documents reflecting whether any such patient underwent a psychiatric evaluation, from 1995 to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 56:

Defendant objects on the grounds of lack of relevancy (in that one instance of such occurring, if it ever did, cannot be compared with the multiple issues which were raised concerning Plaintiff's quality of care) and undue burden. This request would require that Defendant review the files of every cardiac patient for a 12 year period.

REQUEST FOR PRODUCTION NO. 57

ALL DOCUMENTS reflecting INVESTIGATIONS, CORRECTIVE ACTION or other discipline YOU imposed, in whole or in part, for failure to conduct a psychiatric evaluation where cardiac patients had both a psychiatric diagnosis and an indication for cardiac surgery from 1995 to present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 57:

See, Exhibit A. No cardiac surgeon was the subject of an MEC investigation during the time period covered by the chart.

REQUEST FOR PRODUCTION NO. 58:

ALL DOCUMENTS reflecting instances from 1995 to present where YOU criticized or disciplined a cardiac surgeon, in whole or in part, for the brevity of an echocardiogram report.

OBJECTION TO REQUEST FOR PRODUCTION NO. 58:

Defendant objects on the grounds of lack of relevancy (in that one or more instances of such occurring, if it ever did, cannot be compared with the multiple issues which were raised concerning Plaintiff's quality of care) and undue burden. Defendant further objects on physician and patient privacy grounds. See Exhibit A. No cardiac surgeon was the subject of an MEC investigation during the time period covered by the chart.

REQUEST FOR PRODUCTION NO. 59:

ALL DOCUMENTS RELATED TO mitral valve repair or replacement procedures at ABSMC from 2004 to 2006, where there was no history of coronary artery disease.

OBJECTION TO REQUEST FOR PRODUCTION NO. 59:

Defendant objects on the grounds of vagueness (as to the phrase "no history of coronary artery disease), lack of relevancy (in that one or more instances of such occurring, if it ever did, cannot be compared with the multiple issues which were raised concerning Plaintiff's quality of care) and undue burden. This request would require that Defendant review the files of every cardiac procedure. Defendant further objects on physician and patient privacy grounds.

REQUEST FOR PRODUCTION NO. 60:

ALL DOCUMENTS RELATED TO patients at the Alta Bates or Summit campuses of Defendant who underwent a second operation during the same hospitalization to correct a valve problem from 1985 to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 60:

Defendant objects on the grounds of lack of relevancy (in that one or more instances of such occurring, if it ever did, cannot be compared with the multiple issues which were raised concerning Plaintiff's quality of care) and undue burden. This request would require that Defendant review the files of every cardiac procedure. Defendant further objects on physician and patient privacy grounds.

REQUEST FOR PRODUCTION NO. 61:

ALL DOCUMENTS reflecting review by YOUR Cardiac Surgery Peer Review Committees, Surgical peer Review Committees or Medical Executive Committees of cases or instances where patients underwent a second operation during the same hospitalization to correct a valve problem.

OBJECTION TO REQUEST FOR PRODUCTION NO. 61:

Defendant objects on the grounds of lack of relevancy (in that one or more instances of such occurring, if it ever did, cannot be compared with the multiple issues which were raised concerning Plaintiff's quality of care) and undue burden. Defendant further objects on physician and patient privacy grounds. See Exhibit A. No cardiac surgeon was the subject of an MEC investigation during the period covered by the chart.

REQUEST FOR PRODUCTION NO. 62:

ALL DOCUMENTS RELATED TO patient deaths following aortic valve surgery from 1995 to the present at YOUR Alta Bates or Summit campuses.

OBJECTION TO REQUEST FOR PRODUCTION NO. 62:

Defendant objects on the grounds of lack of relevancy, undue burden, and patient and/or physician privacy. Defendant has already provided Plaintiff with statistics of mortality rates considered during his peer review process.

REQUEST FOR PRODUCTION NO. 63:

ALL DOCUMENTS RELATED TO Surgery Peer Review Committee, Ad Hoc Committee or Medical Executive Committee review of patient deaths following aortic valve surgery from 1995 to the present at YOUR Alta Bates or Summit campuses.

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OBJECTION TO REQUEST FOR PRODUCTION NO. 63:

Defendant objects on the grounds of lack of relevancy, undue burden and patient and/or physician privacy. See Exhibit A. No cardiac surgeon was the subject of an MEC investigation during the time period covered by the chart.

REQUEST FOR PRODUCTION NO. 64:

ALL DOCUMENTS RELATED TO review by YOUR Cardiac Surgery Peer Review Committees, Surgical Peer Review Committees or Medical Executive Committees of cases where a Jehovah's Witness patient was operated on at YOUR Alta Bates or Summit campuses from 1995 to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 64:

Defendant objects on the grounds of lack of relevancy, undue burden, and patient and/or physician privacy.

REQUEST FOR PRODUCTION NO. 65:

ALL DOCUMENTS RELATED TO conversion rates for all non-Kaiser cardiac surgeons on YOUR MEDICAL STAFF from 2004 to 2006.

OBJECTION TO REQUEST FOR PRODUCTION NO. 65:

Defendant objects on vagueness grounds to the term "conversion" which could refer to multiple meanings of conversion.

RESPONSE TO REQUEST FOR PRODUCTION NO. 65:

Defendant has already produced all documents relating to the conversion rates from off pump to on pump bypass procedures considered during Plaintiff's peer review.

REQUEST FOR PRODUCTION NO. 66:

ALL DOCUMENTS RELATED TO complaints made by YOUR operating room staff regarding interactions with cardiac surgeons from 1995 to present.

OBJECTION TO REQUEST FOR PRODUCTION NO. 66:

Defendant objects on vagueness grounds to the term "complaints", and further objects on grounds of lack of relevancy.

REQUEST FOR PRODUCTION NO. 67:

ALL DOCUMENTS RELATED TO or reflecting INVESTIGATIONS, CORRECTIVE ACTION or other discipline YOU imposed, in whole or in part, for complaints made by YOUR operating room staff regarding interactions with cardiac surgeons from 1995 to present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 67:

See Exhibit A to Defendant's Responses to Plaintiff's Special Interrogatories, Set One. During the time period covered by Exhibit A, the MEC did not conduct any such investigation of a cardiac surgeon.

REQUEST FOR PRODUCTION NO. 68:

ALL DOCUMENTS RELATED TO or reflecting INVESTIGATIONS, CORRECTIVE ACTION or other discipline YOU imposed from 1995 to present, in whole or in part, based on instances where surgeons allegedly made chart notes on a date other than the date actually identified in the chart notes.

OBJECTION TO REQUEST FOR PRODUCTION NO. 68:

See Defendant's Exhibit A which identifies corrective action taken by the MEC related to the general category of falsification of records. To the extent that this request seeks documents underlying Exhibit A, Defendant objects on the grounds of invasion of privacy of the Medical Staff members who have been promised that peer review would be conducted on a confidential basis in accordance with California Evidence Code Section 1157 and the provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance such privacy interests with Plaintiff's request for information in compiling a summary chart of corrective actions undertaken by the MEC during the period of 1992 to present. That chart does not yet provide information concerning physicians who have raised privacy objections in response to a notice from Defendant's counsel and pending further hearing by the court on November 30, 2007. Providing records beyond the summary information already produced would unduly interfere with

1 such privacy interests and undermine the system of peer review. Such provision of
2 records would also interfere with patient privacy rights.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 68:**

4 Defendant will supplement Exhibit A to provide further information concerning any
5 MEC investigation relating to falsification of medical chart information.

6 **REQUEST FOR PRODUCTION NO. 69:**

7 ALL DOCUMENTS RELATED TO review by YOUR Cardiac Surgery Peer Review
8 Committees, Surgical Peer Review Committees or Medical Executive Committees of a
9 MEMBER of the MEDICAL STAFF based in whole or in part on the brevity of informed
10 consent obtained by the MEMBER.

11 **OBJECTION TO REQUEST FOR PRODUCTION NO. 69:**

12 See Exhibit A which identifies MEC investigation and corrective action related to
13 consent issues. To the extent that this request seeks the production of documents
14 underlying Exhibit A, Defendant objects on the grounds of invasion of privacy of the
15 Medical Staff members who have been promised that peer review would be conducted
16 on a confidential basis in accordance with California Evidence Code Section 1157 and
17 the provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance
18 such privacy interests with Plaintiff's request for information in compiling a summary
19 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
20 That chart does not yet provide information concerning physicians who have raised
21 privacy objections in response to a notice from Defendant's counsel and pending further
22 hearing by the court on November 30, 2007. Providing records beyond the summary
23 information already produced or for committee review at the non-MEC level would
24 unduly interfere with such privacy interests and undermine the system of peer review.
25 Such provision of records would also interfere with patient privacy rights.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 69:**

27 Defendant will supplement Exhibit A to provide further information involving MEC
28 investigations of informed consent issues.

1 **REQUEST FOR PRODUCTION NO. 70:**

2 ALL DOCUMENTS RELATED TO the use of emergent CABG procedures at
3 YOUR Alta Bates or Summit campuses that ended in patient deaths from 2004 to 2006.

4 **OBJECTION TO REQUEST FOR PRODUCTION NO. 70:**

5 Defendant objects to the term "emergent" on vagueness grounds.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 70:**

7 Defendant has already provided statistical information concerning patient deaths
8 in CABG procedures considered during Plaintiff's peer review process.

9 **REQUEST FOR PRODUCTION NO. 71:**

10 ALL DOCUMENTS RELATED TO review by YOUR Cardiac Surgery Peer Review
11 Committees, Surgical Peer Review Committees or Medical Executive Committees of a
12 MEMBER of the MEDICAL STAFF based in whole or in part on lost or retained foreign
13 bodies in surgical patients since 1995.

14 **OBJECTION TO REQUEST FOR PRODUCTION NO. 71:**

15 Defendant objects to RFP No. 71 based on patient and physician privacy.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 71:**

17 Defendant will supplement Exhibit A to reference any consideration of this issue in
18 the investigations there delineated.

19 **REQUEST FOR PRODUCTION NO. 72:**

20 ALL DOCUMENTS RELATED TO review by YOUR Cardiac Surgery Peer Review
21 Committees, Surgical Peer Review Committees or Medical Executive Committees of a
22 MEMBER of the MEDICAL STAFF based in whole or in part on a MEMBER's failure to
23 visit a patient since 1995.

24 **OBJECTION TO REQUEST FOR PRODUCTION NO. 72:**

25 Defendant objects on the grounds of lack of relevancy (in that one instance of
26 such occurring, if it ever did, cannot be compared with the multiple issues which were
27 raised concerning Plaintiff's quality of care), interference with patient and physician
28 privacy. Defendant objects on relevancy grounds to any review at a level other than

1 that conducted by the MEC. To the extent that the request seeks documentation
 2 underlying Exhibit A, Defendant objects on grounds of patient and physician privacy.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 72:**

4 Defendant will supplement Exhibit A to provide further information regarding any
 5 investigation by the MEC concerning failure to visit a patient.

6 **REQUEST FOR PRODUCTION NO. 73:**

7 ALL DOCUMENTS RELATED TO or reflecting INVESTIGATIONS,
 8 CORRECTIVE ACTION or other discipline YOU imposed from 1995 to present, in whole
 9 or in part, based on instances where surgeons were accused of excessive blood use.

10 **OBJECTION TO REQUEST FOR PRODUCTION NO. 73:**

11 Defendant objects on the grounds of invasion of privacy of the Medical Staff
 12 members who have been promised that peer review would be conducted on a
 13 confidential basis in accordance with California Evidence Code Section 1157 and the
 14 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance
 15 such privacy interests with Plaintiff's request for information in compiling a summary
 16 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
 17 That chart does not yet provide information concerning physicians who have raised
 18 privacy objections in response to a notice from Defendant's counsel and pending further
 19 hearing by the court on November 30, 2007. Providing records beyond the summary
 20 information already produced would unduly interfere with such privacy interests and
 21 undermine the system of peer review. Such provision of records would also interfere
 22 with patient privacy rights.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 73:**

24 See, Exhibit A. To the extent that any of the corrective actions there discussed
 25 involved excessive blood usage, Defendant will supplement the chart.

26 **REQUEST FOR PRODUCTION NO. 74:**

27 ALL DOCUMENTS RELATED TO or reflecting INVESTIGATIONS,
 28 CORRECTIVE ACTION or other discipline YOU imposed from 1995 to present, in whole

1 or in part, based on instances where surgeons were accused of lengthy operating times.

2 **OBJECTION TO REQUEST FOR PRODUCTION NO. 74:**

3 Defendant objects on the grounds of invasion of privacy of the Medical Staff
4 members who have been promised that peer review would be conducted on a
5 confidential basis in accordance with California Evidence Code Section 1157 and the
6 provisions of the Summit Medical Staff Bylaws. Defendant has attempted to balance
7 such privacy interests with Plaintiff's request for information in compiling a summary
8 chart of corrective actions undertaken by the MEC during the period of 1992 to present.
9 That chart does not yet provide information concerning physicians who have raised
10 privacy objections in response to a notice from Defendant's counsel and pending further
11 hearing by the court on November 30, 2007. Providing records beyond the summary
12 information already produced would unduly interfere with such privacy interests and
13 undermine the system of peer review. Such provision of records would also interfere
14 with patient privacy rights.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 74:**

16 See, Exhibit A. To the extent that any of the corrective actions there discussed
17 involved lengthy operating times, Defendant will supplement the chart.

18
19 DATED: November ²¹__, 2007

KAUFF MCCLAIN & MCGUIRE LLP

20
21 By: 

22 MAUREEN E. MCCLAIN

23 Attorneys for Defendant
24 ALTA BATES SUMMIT MEDICAL
25 CENTER

26 4841-6797-5682.1

PROOF OF SERVICE

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is One Post Street, Suite 2600, San Francisco, California 94104. On November 28, 2007, I served a true and correct copy of the within documents:

DEFENDANT'S OBJECTIONS AND RESPONSES TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET TWO

on the interested parties in said action by placing true and correct copies in a sealed envelope and giving it into the care of FREEWHEELIN' ATTORNEY SERVICE for same-day hand delivery to the parties as follows:

G. Scott Emblidge, Esq.
Moscone, Emblidge & Quadra, LLP
220 Montgomery Street, Suite 2100
San Francisco, CA 94104

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 28, 2007, at San Francisco, California.



Rita I. Chavez